IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 06.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No1533 of 2001

R.Selvakumar` ` ... Appellant/Petitioner

Vs.

1.Project Director and
Member Secretary,
Tamil Nadu State Aids
Control Society,
No.417, Pantheon Road,
Egmore, Chennai-600 008.

2.The Secretary to Government,
Department of Health,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.

3.The Drug Controller.
Drug Administration,
Government of Tamil Nadu,
No.259-261, Anna Salai,
Chennai-600 006. .. Respondents/Respondents

Writ appeals filed under Clause 15 of the Letters Patent against the order dated 28.06.2001 made in W.P.No.12059 of 2000 petition filed under Article 226 of the constitution of India praying for issue of a writ of Certiorarified Mandamus calling for the records relating to the letter No.006179/D1/88/2000 dated 18.6.2000 issued by the project Director and Member Secretary, Tamil Nadu Aids Control Society, Egmore, Chennai -8 (the first respondent herein) and to quash the same and forbear the first respondent herein or his officers from in any manner interfering the business and administration of the Minu Blood Bank, Salem, run by the petitioner.

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For Appellant : Mr.S.Subbiah
For respondents : Mr.P.Subramanian,
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The writ appeal is directed against the order of the learned single Judge dated 28.06.2001 passed in W.P.No.12059 of 2000, in and by which, the learned single Judge, after finding that the first respondent has got the authority and jurisdiction to call upon the petitioner to submit monthly return, has dismissed the writ petition.

2. Heard the learned counsel for the appellant as well as the learned Government Advocate for the respondents.

3. The only contention of the learned counsel for the appellant is that the first respondent is not the competent or authorised authority to call for a report from the petitioner. The very same contention was raised before the learned single Judge. Though the learned single Judge has not made it clear as to how the first respondent is the authority concerned and got jurisdiction. By furnishing more information, in the counter affidavit filed by the Joint Secretary to Government (M.E.), health and Family Welfare Department, Secretariat, Chennai-9, in the writ appeal the respondents prayed for dismissal of writ apeal. The following information in the said counter affidavit are as follows:

> "It is stated that in W.P.(Civil) No.91/1992, the Honourable Supreme Court of India had directed the State Governments to constitute Blood Transfusion Council at the State Level for streamlining and strengthening the Blood Bank System in the Country. Based on the direction of the Honourable Supreme Court of India, the "Tamil Nadu State Blood Transfusion Council" was constituted with headquarters at Chennai in the year 1996 and the same was notified by the Government in G.O.Ms.No.263, Health and Family Welfare Department, dated 17.05.1996. The members of the Tamil Nadu State Blood Transfusion Council are as follows:

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1.The Secretary to Government,
Health and Family Welfare Department,
Chennai-9. : President

2.The Secretary to Government,
Finance Department, Chennai-9. : Member

3.The Project Director and Member
Secretary, Tamil Nadu State AIDs
Control Society, Chennai-8. : Member Secretary and Director

4.The Special Secretary to Government,
Health and Family Welfare Department,
Chennai-9. : Member

5.Director of Medical Education, Chennai-10 : Member

6.Director of Medical and Rural Health
Services, Chennai-6. : Member

7.Director of Drugs Control, Chennai-6. : Member

8.Director of Public Health and Preventive
Medicine, Chennai-6. : Member

9.Professor of Blood Transfusion Service,
Madras Medical College, Chennai-3. : Member

It is further stated that one of the policies of the State Blood Transfusion Council is to oversee and co-ordinate the functioning of State Blood Transfusion Services in the State. The policy of State Blood Transfusion Council is to completely eliminate the professional donors and promote voluntary blood donors. It is also stated that in India, out of total population, the gap between demand and supply of blood can be bridged by carrying out a proper need assessment of blood products by preparing a base line data. To prepare this, monthly reports of blood units collected both in Government and private Blood Banks are required regularly. It is further stated it is also required their status about zero positively for HIV, HBS, AG. Syphilis and malaria, so that this respond could get a comprehensive picture about the status for whole of Tamil Nadu. For this purpose, the Director of Drugs Control, Chennai, who is the competent authority to issue licence to

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Blood Banks, has ordered in their Ref.No.22963/D2/3/97, dated 04.12.1997 that all the Blood Banks are instructed to send the monthly report on blood collection and disposal to the Tamil Nadu State AIDS Control Society, Chennai-8, directly from the month of December, 1997 onwards. For this purpose, all the Blood Banks in the State have complied with the above instructions of the Director of Drugs Control except the appellant's Blood Bank. It is further stated that the nomination of the Project Director, Tamil Nadu State AIDs Control Society as member Secretary and Director of Tamil Nadu State Blood Transfusion Council has been notified in the G.O.Ms.No.263, Health and Family Welfare Department dated 17.05.1996. Thus the Project Director has acquired the powers in view of the above said notification and he has the authority to call for the reports from the Blood Bank in the capacity of the Member Secretary and Director of Tamil Nadu State Blood Transfusion Council."

4. It is clear from the information furnished in the counter affidavit by the Joint Secretary to Government(M.E.) Health and Family Welfare Department, Secretariat, Chennai-9, that pursuant to the direction of the Supreme Court of India, the State Government has constituted the "Tamil Nadu State Blood Transfusion Council". Further the competent authority viz., The Director of Drugs Control, Chennai-6, has also instructed all the Blood Banks to send monthly report on blood collection and disposal to the Tamil Nadu State AIDs Control Society, Chennai-8, directly from the month of December, 1997 onwards. In view of the same, the direction of the Supreme Court and notification of the State Government as follow up action and further instruction by the Director of Drugs Control Society, Chennai-8, we are unable to accept the contention of the learned counsel for the appellant. On the other hand, we are in agreement with the conclusion arrived at by the learned single Judge. Accordingly, the writ appeal fails and the same is dismissed. No costs.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

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Member Secretary,
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2.The Secretary to Government,
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Government of Tamil Nadu,
Fort St. George,
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3.The Drug Controller.
Drug Administration,
Government of Tamil Nadu,
No.259-261, Anna Salai,
Chennai-600 006.

+1cc to Mr.S.Subbiah, Advocate Sr 53170

GM (CO)
km/17.11.

W.A.No.1533 of 2001

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